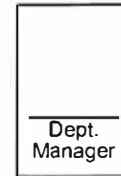


AGENDA INFORMATION

- ☒ Regular Meeting
☐ Other:

Date: November 1, 2021
Date: _____



**The District of North Vancouver
REPORT TO COUNCIL**

October 19th, 2021
File: 09.3900.20/000.000

AUTHOR: Genevieve Lanz, Deputy Municipal Clerk

SUBJECT: **Bylaw 8533: Mount Seymour Lions Housing Society
Bowron Court and Apex Avenue Housing Agreement**

RECOMMENDATION:

THAT "Housing Agreement Bylaw 8533, 2021 (900 and 901 Bowron Court and 800 Apex Ave)" is ADOPTED.

BACKGROUND:

Bylaw 8533 received First, Second and Third Readings on October 18th, 2021.

The bylaw is now ready to be considered for Adoption by Council.

OPTIONS:

1. Adopt the bylaw;
2. Give no further Readings to the bylaw and abandon the bylaw at Third Reading; or,
3. Rescind Third Reading and debate possible amendments to the bylaw.

Respectfully submitted,

Genevieve Lanz
Deputy Municipal Clerk

Attachments:

1. Bylaw 8533

**SUBJECT: Bylaw 8533: Mount Seymour Lions Housing Society
Bowron Court and Apex Avenue Housing Agreement**

October 19th, 2021

Page 2

2. Staff Report dated September 28th, 2021

REVIEWED WITH:					
<input type="checkbox"/> Community Planning	_____	<input type="checkbox"/> Clerk's Office	_____	External Agencies:	
<input type="checkbox"/> Development Planning	_____	<input type="checkbox"/> Communications	_____	<input type="checkbox"/> Library Board	_____
<input type="checkbox"/> Development Engineering	_____	<input type="checkbox"/> Finance	_____	<input type="checkbox"/> NS Health	_____
<input type="checkbox"/> Utilities	_____	<input type="checkbox"/> Fire Services	_____	<input type="checkbox"/> RCMP	_____
<input type="checkbox"/> Engineering Operations	_____	<input type="checkbox"/> ITS	_____	<input type="checkbox"/> NVRC	_____
<input type="checkbox"/> Parks	_____	<input type="checkbox"/> Solicitor	_____	<input type="checkbox"/> Museum & Arch.	_____
<input type="checkbox"/> Environment	_____	<input type="checkbox"/> GIS	_____	<input type="checkbox"/> Other:	_____
<input type="checkbox"/> Facilities	_____	<input type="checkbox"/> Real Estate	_____		
<input type="checkbox"/> Human Resources	_____	<input type="checkbox"/> Bylaw Services	_____		
<input type="checkbox"/> Review and Compliance	_____	<input type="checkbox"/> Planning	_____		

The Corporation of the District of North Vancouver

Bylaw 8533

A bylaw to enter into a Housing Agreement

The Council for The Corporation of the District of North Vancouver enacts as follows:

Citation

1. This bylaw may be cited as "Housing Agreement Bylaw 8533, 2021 (900 and 901 Bowron Court and 800 Apex Ave)".

Authorization to Enter into Agreement

2. The Council hereby authorizes a housing agreement between The Corporation of the District of North Vancouver and Mount Seymour Lions Housing Society substantially in the form attached to this Bylaw as Schedule "A" with respect to the following lands:
 - a) PID: 004-934-652, LOT 16 DISTRICT LOT 622 PLAN 20208
 - b) PID: 004-935-535, LOT 20 DISTRICT LOT 622 PLAN 20208
 - c) PID: 003-065-570, LOT A DISTRICT LOTS 621 AND 622 PLAN 20692

Execution of Documents

3. The Mayor and Municipal Clerk are authorized to execute any documents required to give effect to the Housing Agreement.

READ a first time October 18th, 2021

READ a second time October 18th, 2021

READ a third time October 18th, 2021

ADOPTED

Mayor

Municipal Clerk

Certified a true copy



Municipal Clerk

Schedule A to Bylaw 8533

SECTION 219 HOUSING AGREEMENT COVENANT

THIS AGREEMENT dated for reference the ____ day of _____, 2021

BETWEEN:

MOUNT SEYMOUR LIONS HOUSING SOCIETY,
147 - 1300 Parkgate Avenue, North Vancouver, BC V7H 2Y2

(the “**Owner**”)

AND:

**THE CORPORATION OF THE DISTRICT OF NORTH
VANCOUVER,** 355 West Queens Road, North Vancouver, BC
V7N 4N5

(the “**District**”)

WHEREAS:

1. The Owner is the registered owner in fee simple of lands in the District of North Vancouver, British Columbia legally described in Item 2 of the Form C General Instrument Part 1 to which this Agreement is attached and which forms part of this Agreement (the “**Land**”);
2. The Owner owns and operates 94 residential rental dwelling units (the “**Rental Apartment Units**”) on the Land in various buildings;
3. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the District in respect of the use of land, construction on land or the subdivision of land;
4. Section 483 of the *Local Government Act* permits the District to enter into a housing agreement with an owner of land, which agreement may include terms and conditions regarding the occupancy, tenure and availability of dwelling units located on the Land; and
5. The Owner and the District wish to enter into this Agreement to restrict the use of the Land on the terms and conditions of this agreement, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 483 of the *Local Government Act*.

NOW THEREFORE in consideration of the sum of \$10.00 now paid by the District to the Owner and other good and valuable consideration, the receipt and sufficiency of which the

Owner hereby acknowledges, the parties covenant and agree pursuant to Section 219 of the *Land Title Act* (British Columbia) as follows:

1. **Affordable Rental Housing** – The Land may not be used for any purpose whatsoever save and except for the purposes of low income rental housing in accordance with this Agreement.
2. **Use of Rental Apartment Units** - No Rental Apartment Unit will be used for any purposes whatsoever save and except for the purpose of providing rental accommodation to tenants pursuant to month to month residential tenancy agreements or residential tenancy agreements with terms not exceeding three years in duration (including all periods in respect of which any rights or renewal or extension, contingent or otherwise, have been granted), where said tenancy agreements comply with all of the requirements of Section 3.
3. **Tenancy Agreements for Rental Apartment Units** - The Owner shall not suffer, cause or permit occupancy of any Rental Apartment Unit except pursuant to a residential tenancy agreement that:
 - (a) does not require payment of rent or any other consideration directly or indirectly that exceeds 80% of Market Rent;
 - (b) does not require the rent to be prepaid at an interval greater than monthly; and
 - (c) prohibits the tenant from subletting the unit, assigning the tenancy agreement, or operating the unit on a short term rental basis (less than one month), except to the extent that the *Residential Tenancy Act* restricts or prohibits such prohibitions.

For the purpose of section 3(a), “Market Rent” means the monthly market rental amount that would be paid for similar premises in a similar location in North Vancouver as between persons dealing in good faith and at arm's length. Rent as aforesaid does NOT include electricity, natural gas, cablevision, furniture, internet or other facilities or services.

If the District is not satisfied with the Owner's determination of Market Rent for one or more of the Rental Apartment Units, then the determination of Market Rent shall be referred to a single real estate appraiser with AACI accreditation, which said appraiser must be mutually acceptable to both the District and the Owner. The determination made by the appraiser shall be final and binding. The appraisal costs shall be equally shared between the District and the Owner.

4. **Reporting** - Not later than 90 days after the Owner's fiscal year end the Owner will submit to the District annually:
 - (a) its audited financial statements; and
 - (b) a schedule of rents charged for each Rental Unit during the previous fiscal year.

5. **Specific Performance** – The Owner agrees that, without affecting any other rights or remedies the District may have in respect of any breach of this Agreement, the District is entitled to obtain an order for specific performance of this Agreement and a prohibitory or mandatory injunction in respect of any breach by the Owner of this Agreement. The Owner agrees that this is reasonable given the public interest in restricting occupancy of the Land in accordance with this Agreement.
6. **Notice of Housing Agreement** – For clarity, the Owner acknowledges and agrees that:
 - (a) this Agreement constitutes both a covenant under section 219 of the *Land Title Act* and a housing agreement entered into under section 483 of the *Local Government Act*;
 - (b) the District is required to file a notice of housing agreement in the Land Title Office against title to the Land; and
 - (c) once such a notice is filed, this Agreement, as a housing agreement under section 483 of the *Local Government Act*, binds all persons who acquire an interest in the Land in perpetuity.
7. **Compliance with Laws** – The Owner will at times ensure that the Land is used and occupied in compliance with all statutes, laws, regulations, bylaws, and orders of the District and other authorities having jurisdiction, including all rules, regulations, policies, guidelines and the like under or pursuant to them.
8. **Cost** – The Owner shall comply with all requirements of this Agreement at its own cost and expense.
9. **Interpretation** – In this Agreement:
 - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
 - (d) reference to the “Land” or to any other parcel of land is a reference also to any parcel into which it is subdivided or consolidated by any means (including the removal of interior parcel boundaries) and to each parcel created by any such subdivision or consolidations;
 - (e) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;

- (f) reference to any enactment includes any regulations, orders, permits or directives made or issued under the authority of that enactment;
- (g) unless otherwise expressly provided, referenced to any enactment is a reference to that enactment as consolidated, revised, amended, re enacted or replaced;
- (h) time is of the essence;
- (i) all provisions are to be interpreted as always speaking;
- (j) reference to a “party” is a reference to a party to this Agreement and the their respective heirs, executors, successors (including successors in title), trustees, administrators and receivers;
- (k) reference to the District is a reference also to is elected and appointed official, officer, employees and agents;
- (l) reference to a “day”, “month”, “quarter”, or “year” is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”; and
- (n) any act, decision, determination, consideration, opinion, consent or exercise of discretion by a party or person as provided in this Agreement must be preformed, made, formed or exercised acting reasonably, except that any act, decision, determination, consideration, consent, opinion or exercise of discretion that is said to be within the “sole discretion” of a party or person may be preformed, made, formed or exercised by that party or person in the sole, unfettered and absolute discretion of that party or person.

10. **Notice** – All notices and other communications required or permitted to be given under this Agreement must be in writing and must be sent by registered mail or delivered as follows:

- (a) if to the Owner, as follows:

Mount Seymour Lions Housing Society
 147 - 1300 Parkgate Avenue
 North Vancouver, BC V7H 2Y2

Attention: Administrator
 Fax: 604 929-9404

- (b) if to the District, as follows:

The Corporation of the District of North Vancouver
355 West Queens Road
North Vancouver, BC V7N 4N5

Attention: General Manager, Planning, Properties and Permits
Facsimile: (604) 990-2423

Any notice or other communication that is delivered is considered to have been given on the next business day after it is dispatched for delivery. Any notice or other communication that is sent by registered mail is considered to have been given five days after the day on which it is mailed at a Canada Post office. If there is an existing or threatened strike or labour disruption that has caused, or may cause, an interruption in the mail, any notice or other communication must be delivered until ordinary mail services is restored or assured. If a party changes its address it must immediately give notice of its new address to the other party as provided in this Section.

11. **No Waiver** – No provision or breach of this Agreement, or any default, is to be considered to have been waived or acquiesced in by a party unless the waiver is express and is in writing by the party. The waiver by a party of any breach by the other party of any provision, or default, is not to be construed as or constituted a waiver of any further or other breach or the same or any other provision or default.
12. **Third Party Beneficiaries** – Except as may be expressly provided in this Agreement, this Agreement is not to be interpreted to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty or obligation created by this Agreement.
13. **No Effect on Laws or Powers** – This Agreement and the Owner's contributions, obligations and agreements set out in this Agreement do not:
 - (a) affect or limit the discretion, rights or powers of the District or the approving officer under any enactment or at common law, including in relation to the use, development, servicing or subdivision of the Land;
 - (b) impose on the District or the approving officer any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
 - (c) affect or limit any enactment relating to the use, development or subdivision of the Land; or
 - (d) relieve the Owner from complying with any enactment, including in relation to the use, development, servicing or subdivision of the Land.

14. **Binding Effect** – This Agreement enures to the benefit of and is binding upon the parties and their respective heirs, executors, administrators, trustees, receivers and successors (including successors in title).
15. **Covenant Runs With the Land** - Every provision of this Agreement and every obligation and covenant of the Owner in this Agreement, constitutes a deed and a contractual obligation, and also a covenant granted by the Owner to the District in accordance with Section 219 of the *Land Title Act*, and this Agreement burdens the Land to the extent provided in this Agreement, and runs with it and binds the Owner's successors in title. This Agreement also burdens and runs with every parcel into which the Land is or they are consolidated (including by the removal of interior parcel boundaries) by any means.
16. **Voluntary Agreement** - The Owner acknowledges that the Owner has entered into this Agreement voluntarily and has taken legal advice with regard to the entry of this Agreement and the development of the Land.
17. **Agreement for Benefit of District Only** – The Owner and the District agree that:
 - (a) this Agreement is entered into only for the benefit of the District;
 - (b) this Agreement is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the property, the Land or the buildings or any portion thereof; and
 - (c) the District may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.
18. **Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
19. **Further Acts** - The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
20. **Joint Obligations of Owner** - If two or more persons execute this Agreement as Owner, the liability of each such person to observe and perform all of the Owner's obligations pursuant to this Agreement will be deemed to be joint and several.
21. **Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force and unaffected by that holding or by the severance of that part.
22. **Amendment** - This Agreement may be amended from time to time by agreement between the Owner and the District. Except as otherwise expressly provided in this Agreement, the amendment agreement must be by an instrument in writing duly executed by the Owner and the District.

23. **Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a new contract and a deed of covenant executed and delivered under seal.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

THIS PAGE LEFT BLANK INTENTIONALLY

AGENDA INFORMATION	
<input checked="" type="checkbox"/> Regular Meeting	Date: October 18, 2021
<input type="checkbox"/> Other:	Date: _____



The District of North Vancouver REPORT TO COUNCIL

September 28, 2021
File: 06.2360.40/009.000

AUTHOR: Jimmy Yip - Properties Services Agent

SUBJECT: **Mount Seymour Lions Housing Society
Bowron Court and Apex Avenue Housing Agreement**

RECOMMENDATION:

THAT "Housing Agreement Bylaw 8533, 2021 (900 and 901 Bowron Court and 800 Apex Avenue)" is given **FIRST, SECOND and THIRD READING.**

REASON FOR REPORT:

To obtain First, Second and Third Reading of "Housing Agreement Bylaw 8533, 2021 (900 and 901 Bowron Court and 800 Apex Avenue)" (**Attachment 1**) to authorize the execution of a Housing Agreement over two affordable rental developments owned by Mount Seymour Lions Housing Society ("MSLHS") to restrict the use of the lands for affordable rental housing.

SUMMARY:

MSLHS has approached the District to enter into a housing agreement to restrict use of the lands located at 900 - 978 Bowron Court ("Lions Court") and 800 - 832 Apex Avenue ("Lions Plaza") to affordable rental housing (**Attachment 2**). MSLHS has made this request in order to avoid higher property taxes on these properties, as if these developments have unrestricted use they will be assessed as market rental properties.

Background

MSLHS has been serving the greater North Shore since 1986. MSLHS provides 199 affordable rental units over 4 developments including Lions Court and Lions Plaza. All units within the developments provide subsidized housing for families, persons with disabilities and seniors. Lions Court and Lions Plaza provide a total of 94 affordable rental units.

Lions Court opened in 1986 and is made up of 12 buildings containing 67 two and three bedroom townhouse units. Lions Court is one development located on two separate parcels that are divided by Bowron Court.

**SUBJECT: Mount Seymour Lions Housing Society
Bowron Court & Apex Ave**

September 28, 2021

Page 2

Lions Plaza was also opened in 1986 and is made up of 7 buildings containing 27 one to four bedroom townhouse units. Lions Plaza is located on one legal parcel divided by Apex Avenue.

Thirty five years after their initial development, Lions Court and Lions Plaza are no longer supported by CMHC and BC Housing as their operating agreements to preserve affordable rental housing units expired in mid-2021.

ANALYSIS:

With the removal of the CMHC and BC Housing operating agreements restricting the use of the units, BC Assessment will capture this change and assess both properties as if the units were rented at market rents. This would significantly increase the market value of the development, and therefore the annual property tax assessment. This will ultimately increase the operating cost of Lions Court and Lions Plaza. Any increase in property taxes will be passed on to the tenants and the current rental rates will no longer be sustainable. The signing of a housing agreement with the District will continue to restrict the use of the land for affordable rental housing, and will not trigger a reassessment of the market value of the properties by BC Assessment, which would impact the amount of annual property taxes.

The rents for Lions Court and Lions Plaza are currently identified on the MSLHS website as:

# of Bedrooms	Lions Court	Lions Plaza
	900 & 901 Bowron Crt	800 Apex Ave
1 BR	-	\$1,250.00
2 BR	\$1,575.00	\$1,575.00
3 BR	\$1,850.00	\$1,850.00
4 BR	-	\$2,125.00

The median rents in 2020 CHMC rental data for Metro Vancouver and the District of North Vancouver are identified as:

# of Bedrooms	Metro Van median rent (2020)	DNV median rent (2020)
1 BR	\$1,390.00	\$1,600.00
2 BR	\$1,650.00	\$2,080.00
3+ BR	\$1,850.00	\$2,475.00

When comparing both sets of data, MSLHS rental rates are 5% - 15% lower than the Metro Van median rent and 22% - 25% lower than the District's median rent according to CMHC rental data in 2020.

In 1985, the District registered a restrictive covenant over Lions Plaza which stated that the land must be used as a low-income rental housing project. This restrictive covenant

**SUBJECT: Mount Seymour Lions Housing Society
Bowron Court & Apex Ave**

September 28, 2021

Page 3

may not be enforceable as it does not provide a definition for low income, therefore staff are proposing that this restrictive covenant to be discharged and replaced with the new housing agreement.

Financial Impacts:

There is no legal obligation or liability to the District in approving this housing agreement. MSLHS is not requesting an exemption from property taxes on these developments. Rather, they are requesting property taxes to be based on the current use as affordable rental housing.

If the housing agreement is not registered on title to the properties the District would generate additional property tax revenue from these sites, as the sites would be assessed based on the market value of the property as unrestricted. The District is foregoing the additional property taxes to help ensure these properties remaining affordable into the future.

Legal:

It is recommended that the housing agreement be registered on the title of each of these properties. If all or any of the properties were sold to a third party, the housing agreement will remain in effect for any new owners.

The housing agreement ensures all units are to be used for affordable rental housing, and prohibits subletting, the assignment of the tenancy agreements or the use of any units for short term rentals. Rental rates cannot exceed 80% of market rent of comparable units in North Vancouver. MSLHS would submit annual audited financial statements and rental rate schedules to the District.

Conclusion:

Lions Court and Lions Plaza are important affordable rental developments in our community and by registering a covenant securing a housing agreement on the title of these properties, they will continue to house low to moderate income seniors, persons with disabilities and families.

Options:

1. THAT "Housing Agreement Bylaw 8533, 2021 (900 and 901 Bowron Court and 800 Apex Avenue)" is given FIRST, SECOND and THIRD READING. (Staff Recommendation)
2. That no further action is taken.

Respectfully submitted,

Jimmy Yip
Property Services Agent



**SUBJECT: Mount Seymour Lions Housing Society
Bowron Court & Apex Ave**

September 28, 2021

Page 4

REVIEWED WITH:		
<input checked="" type="checkbox"/> Community Planning	<u>JA</u>	<input type="checkbox"/> Clerk's Office
<input type="checkbox"/> Development Planning	_____	<input type="checkbox"/> Communications
<input type="checkbox"/> Development Engineering	_____	<input checked="" type="checkbox"/> Finance
<input type="checkbox"/> Utilities	_____	<input type="checkbox"/> Fire Services
<input type="checkbox"/> Engineering Operations	_____	<input type="checkbox"/> ITS
<input type="checkbox"/> Parks	_____	<input checked="" type="checkbox"/> Solicitor
<input type="checkbox"/> Environment	_____	<input type="checkbox"/> GIS
<input type="checkbox"/> Facilities	_____	<input type="checkbox"/> Real Estate
<input type="checkbox"/> Human Resources	_____	<input type="checkbox"/> Bylaw Services
External Agencies:		
<input type="checkbox"/> Library Board		
<input type="checkbox"/> NS Health		
<input type="checkbox"/> RCMP		
<input type="checkbox"/> NVRC		
<input type="checkbox"/> Museum & Arch.		
<input type="checkbox"/> Other:		

The Corporation of the District of North Vancouver

Bylaw 8533

A bylaw to enter into a Housing Agreement

The Council for The Corporation of the District of North Vancouver enacts as follows:

Citation

1. This bylaw may be cited as "Housing Agreement Bylaw 8533, 2021 (900 and 901 Bowron Court and 800 Apex Ave)".

Authorization to Enter into Agreement

2. The Council hereby authorizes a housing agreement between The Corporation of the District of North Vancouver and Mount Seymour Lions Housing Society substantially in the form attached to this Bylaw as Schedule "A" with respect to the following lands:
 - a) PID: 004-934-652, LOT 16 DISTRICT LOT 622 PLAN 20208
 - b) PID: 004-935-535, LOT 20 DISTRICT LOT 622 PLAN 20208
 - c) PID: 003-065-570, LOT A DISTRICT LOTS 621 AND 622 PLAN 20692

Execution of Documents

3. The Mayor and Municipal Clerk are authorized to execute any documents required to give effect to the Housing Agreement.

READ a first time

READ a second time

READ a third time

ADOPTED

Mayor

Municipal Clerk

Certified a true copy

Municipal Clerk

Schedule A to Bylaw 8533

LAND TITLE ACT

TERMS OF INSTRUMENT – PART 2

SECTION 219 HOUSING AGREEMENT COVENANT

THIS AGREEMENT dated for reference the ____ day of _____, 2021

BETWEEN:

MOUNT SEYMOUR LIONS HOUSING SOCIETY,
147 - 1300 Parkgate Avenue, North Vancouver, BC V7H 2Y2

(the “**Owner**”)

AND:

**THE CORPORATION OF THE DISTRICT OF NORTH
VANCOUVER,** 355 West Queens Road, North Vancouver, BC
V7N 4N5

(the “**District**”)

WHEREAS:

1. The Owner is the registered owner in fee simple of lands in the District of North Vancouver, British Columbia legally described in Item 2 of the Form C General Instrument Part 1 to which this Agreement is attached and which forms part of this Agreement (the “**Land**”);
2. The Owner owns and operates 94 residential rental dwelling units (the “**Rental Apartment Units**”) on the Land in various buildings;
3. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the District in respect of the use of land, construction on land or the subdivision of land;
4. Section 483 of the *Local Government Act* permits the District to enter into a housing agreement with an owner of land, which agreement may include terms and conditions regarding the occupancy, tenure and availability of dwelling units located on the Land; and
5. The Owner and the District wish to enter into this Agreement to restrict the use of the Land on the terms and conditions of this agreement, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 483 of the *Local Government Act*.

NOW THEREFORE in consideration of the sum of \$10.00 now paid by the District to the Owner and other good and valuable consideration, the receipt and sufficiency of which the Owner hereby acknowledges, the parties covenant and agree pursuant to Section 219 of the *Land Title Act* (British Columbia) as follows:

1. **Affordable Rental Housing** – The Land may not be used for any purpose whatsoever save and except for the purposes of low income rental housing in accordance with this Agreement.
2. **Use of Rental Apartment Units** - No Rental Apartment Unit will be used for any purposes whatsoever save and except for the purpose of providing rental accommodation to tenants pursuant to month to month residential tenancy agreements or residential tenancy agreements with terms not exceeding three years in duration (including all periods in respect of which any rights or renewal or extension, contingent or otherwise, have been granted), where said tenancy agreements comply with all of the requirements of Section 3.
3. **Tenancy Agreements for Rental Apartment Units** - The Owner shall not suffer, cause or permit occupancy of any Rental Apartment Unit except pursuant to a residential tenancy agreement that:
 - (a) does not require payment of rent or any other consideration directly or indirectly that exceeds 80% of Market Rent;
 - (b) does not require the rent to be prepaid at an interval greater than monthly; and
 - (c) prohibits the tenant from subletting the unit, assigning the tenancy agreement, or operating the unit on a short term rental basis (less than one month), except to the extent that the *Residential Tenancy Act* restricts or prohibits such prohibitions.

For the purpose of section 3(a), “Market Rent” means the monthly market rental amount that would be paid for similar premises in a similar location in District of North Vancouver as between persons dealing in good faith and at arm's length. Rent as aforesaid does NOT include electricity, natural gas, cablevision, furniture, internet or other facilities or services.

If the District is not satisfied with the Owner's determination of Market Rent for one or more of the Rental Apartment Units, then the determination of Market Rent shall be referred to a single real estate appraiser with AACI accreditation, which said appraiser must be mutually acceptable to both the District and the Owner. The determination made by the appraiser shall be final and binding. The appraisal costs shall be equally shared between the District and the Owner.

4. **Reporting** - Not later than 90 days after the Owner's fiscal year end the Owner will submit to the District annually:
 - (a) its audited financial statements; and

- (b) a schedule of rents charged for each Rental Unit during the previous fiscal year.
- 5. **Specific Performance** – The Owner agrees that, without affecting any other rights or remedies the District may have in respect of any breach of this Agreement, the District is entitled to obtain an order for specific performance of this Agreement and a prohibitory or mandatory injunction in respect of any breach by the Owner of this Agreement. The Owner agrees that this is reasonable given the public interest in restricting occupancy of the Land in accordance with this Agreement.
- 6. **Notice of Housing Agreement** – For clarity, the Owner acknowledges and agrees that:
 - (a) this Agreement constitutes both a covenant under section 219 of the *Land Title Act* and a housing agreement entered into under section 483 of the *Local Government Act*;
 - (b) the District is required to file a notice of housing agreement in the Land Title Office against title to the Land; and
 - (c) once such a notice is filed, this Agreement, as a housing agreement under section 483 of the *Local Government Act*, binds all persons who acquire an interest in the Land in perpetuity.
- 7. **Compliance with Laws** – The Owner will at times ensure that the Land is used and occupied in compliance with all statutes, laws, regulations, bylaws, and orders of the District and other authorities having jurisdiction, including all rules, regulations, policies, guidelines and the like under or pursuant to them.
- 8. **Cost** – The Owner shall comply with all requirements of this Agreement at its own cost and expense.
- 9. **Interpretation** – In this Agreement:
 - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
 - (d) reference to the “Land” or to any other parcel of land is a reference also to any parcel into which it is subdivided or consolidated by any means (including the removal of interior parcel boundaries) and to each parcel created by any such subdivision or consolidations;

- (e) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (f) reference to any enactment includes any regulations, orders, permits or directives made or issued under the authority of that enactment;
- (g) unless otherwise expressly provided, referenced to any enactment is a reference to that enactment as consolidated, revised, amended, re enacted or replaced;
- (h) time is of the essence;
- (i) all provisions are to be interpreted as always speaking;
- (j) reference to a “party” is a reference to a party to this Agreement and the their respective heirs, executors, successors (including successors in title), trustees, administrators and receivers;
- (k) reference to the District is a reference also to is elected and appointed official, officer, employees and agents;
- (l) reference to a “day”, “month”, “quarter”, or “year” is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”; and
- (n) any act, decision, determination, consideration, opinion, consent or exercise of discretion by a party or person as provided in this Agreement must be preformed, made, formed or exercised acting reasonably, except that any act, decision, determination, consideration, consent, opinion or exercise of discretion that is said to be within the “sole discretion” of a party or person may be preformed, made, formed or exercised by that party or person in the sole, unfettered and absolute discretion of that party or person.

10. **Notice** – All notices and other communications required or permitted to be given under this Agreement must be in writing and must be sent by registered mail or delivered as follows:

- (a) if to the Owner, as follows:

Mount Seymour Lions Housing Society
 147 - 1300 Parkgate Avenue
 North Vancouver, BC V7H 2Y2

Attention: Administrator
 Fax: 604 929-9404

- (b) if to the District, as follows:

The Corporation of the District of North Vancouver
355 West Queens Road
North Vancouver, BC V7N 4N5

Attention: General Manager, Planning, Properties and Permits
Facsimile: 604 990-2423

Any notice or other communication that is delivered is considered to have been given on the next business day after it is dispatched for delivery. Any notice or other communication that is sent by registered mail is considered to have been given five days after the day on which it is mailed at a Canada Post office. If there is an existing or threatened strike or labour disruption that has caused, or may cause, an interruption in the mail, any notice or other communication must be delivered until ordinary mail services is restored or assured. If a party changes its address it must immediately give notice of its new address to the other party as provided in this Section.

11. **No Waiver** – No provision or breach of this Agreement, or any default, is to be considered to have been waived or acquiesced in by a party unless the waiver is express and is in writing by the party. The waiver by a party of any breach by the other party of any provision, or default, is not to be construed as or constituted a waiver of any further or other breach or the same or any other provision or default.
12. **Third Party Beneficiaries** – Except as may be expressly provided in this Agreement, this Agreement is not be interpreted to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty or obligation created by this Agreement.
13. **No Effect on Laws or Powers** – This Agreement and the Owner's contributions, obligations and agreements set out in this Agreement do not:
 - (a) affect or limit the discretion, rights or powers of the District or the approving officer under any enactment or at common law, including in relation to the use, development, servicing or subdivision of the Land;
 - (b) impose on the District or the approving officer any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
 - (c) affect or limit any enactment relating to the use, development or subdivision of the Land; or
 - (d) relieve the Owner from complying with any enactment, including in relation to the use, development, servicing or subdivision of the Land.

14. **Binding Effect** – This Agreement enures to the benefit of and is binding upon the parties and their respective heirs, executors, administrators, trustees, receivers and successors (including successors in title).
15. **Covenant Runs With the Land** - Every provision of this Agreement and every obligation and covenant of the Owner in this Agreement, constitutes a deed and a contractual obligation, and also a covenant granted by the Owner to the District in accordance with Section 219 of the *Land Title Act*, and this Agreement burdens the Land to the extent provided in this Agreement, and runs with it and binds the Owner's successors in title. This Agreement also burdens and runs with every parcel into which the Land is or they are consolidated (including by the removal of interior parcel boundaries) by any means.
16. **Voluntary Agreement** - The Owner acknowledges that the Owner has entered into this Agreement voluntarily and has taken legal advice with regard to the entry of this Agreement and the development of the Land.
17. **Agreement for Benefit of District Only** – The Owner and the District agree that:
 - (a) this Agreement is entered into only for the benefit of the District;
 - (b) this Agreement is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the property, the Land or the buildings or any portion thereof; and
 - (c) the District may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.
18. **Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
19. **Further Acts** - The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
20. **Joint Obligations of Owner** - If two or more persons execute this Agreement as Owner, the liability of each such person to observe and perform all of the Owner's obligations pursuant to this Agreement will be deemed to be joint and several.
21. **Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force and unaffected by that holding or by the severance of that part.
22. **Amendment** - This Agreement may be amended from time to time by agreement between the Owner and the District. Except as otherwise expressly provided in this Agreement, the amendment agreement must be by an instrument in writing duly executed by the Owner and the District.

23. **Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a new contract and a deed of covenant executed and delivered under seal.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

THIS PAGE LEFT BLANK INTENTIONALLY

ATTACHMENT 2

Location of the developments



THIS PAGE LEFT BLANK INTENTIONALLY